

Debra P. Hackett
Clerk, U.S. District Court
15 LEE ST STE 206
MONTGOMERY AL 36104-4055

November 07, 2007

Appeal Number: 07-13163-B

Case Style: USA v. Don Eugene Siegelman
District Court Number: 05-00119 CR-F-N

TO: Debra P. Hackett

CC: Vincent F. Kilborn, III

CC: Hiram Chester Eastland, Jr.

CC: G. Robert Blakey

CC: David Allen McDonald

CC: Arthur W. Leach

CC: James K. Jenkins

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CC: Carmen D. Hernandez

CC: Frederick G. Helmsing

CC: W. Bruce Maloy

CC: James W. Parkman, III

CC: William C. White, II

CC: Bruce Rogow

CC: Cynthia E. Gunther

CC: Hon. Mark E. Fuller

CC: Administrative File

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

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Enclosed is a certified copy of an order remanding the referenced appeal for further proceedings.
JURISDICTION OF THIS APPEAL IS BEING RETAINED BY THE ELEVENTH CIRCUIT.

Upon completion of remand proceedings, please promptly send a certified copy of the ORDER ON REMAND accompanied by an updated indexed district court docket sheet to this office.

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Carolyn Magers (404) 335-6181

Enclosures:

Volume(s) of Record

Box(es) of Exhibits

Envelope(s) of Exhibits

LIMITED REMAND

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

07-13163-B

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

NOV - 7 2007

THOMAS K. KAHN
CLERK

UNITED STATES OF AMERICA,

Plaintiff-Appellee-
Cross-Appellant,

versus

DON EUGENE SIEGELMAN,
RICHARD SCRUSHY,

Defendants-Appellants-
Cross-Appellees.

On Appeal from the United States District Court for the
Middle District of Alabama

BEFORE: BLACK and MARCUS, Circuit Judges.

BY THE COURT:

A True Copy - Attested:
Clerk, U.S. Court of Appeals
for the Eleventh Circuit
Carolyn Magers
Clerk
Atlanta, GA 30333

This matter is now before the Court on Appellant Siegelman's "Supplemental Motion In Support of Release Pending Appeal"

On September 27, 2007, we remanded on a limited basis Siegelman's motion for release pending appeal, the Government's response to that motion, and

Siegelman's reply to the Government's response, with instructions to the district court to consider and dispose of the motion expeditiously and to enter an order explaining the reasons for its ruling.

On October 4, 2007, the district court denied Siegelman's motion with the following explanation:

This Court is mindful of the Eleventh Circuit's order, which requests "expeditious consideration and disposition" of these issues. Therefore, while this Court has given the merit of the issues due consideration, it will not issue a lengthy written opinion on this matter. In order for this Court to grant Siegelman's motion, it would have to hold that he has raised a substantial question that would be likely to result in reversal or a new trial on all of the counts of which he was convicted, or likely to result in a term of imprisonment less than the expected duration of the appeal. . . . The Court does not find that the issues Siegelman has identified satisfy the standard established by 18 U.S.C. § 3143(b) as interpreted by the Eleventh Circuit Court of Appeals, and therefore Siegelman has failed to meet his burden. Consequently, this Court is without authority to grant him the relief he seeks.

See District Court's October 4, 2007 Memorandum Opinion and Order (Doc. 661), p. 3 (citations and emphasis omitted).

We express no opinion at this stage in the proceedings as to whether any of the issues raised in Siegelman's original motion rise to the level of a "substantial question," as that term is used in 18 U.S.C. § 3143(b)(1)(B). It is evident from our review of the extensive materials now before this Court that the proceedings (including the trial) before the district court were lengthy and complex. We believe,

however, that a more detailed explanation of the district court's reasoning would facilitate meaningful appellate review. Thus, while we appreciate the district court's alacrity in issuing its order on limited remand, we REMAND this matter once again to the district court, on a limited basis, so that we can properly determine whether Siegelman has met his burden of entitlement to release pending the resolution of this appeal.

Accordingly, this matter is hereby REMANDED on a limited basis to allow the district court the opportunity to address more fully whether there is a substantial question likely to result in reversal or a new trial.

Upon entry of the district court's order, Siegelman may file a motion of no more than thirty (30) pages for review of such order pursuant to Fed. R. App. P. 9(b). The Government's response to any such motion shall not exceed thirty (30) pages in length, and any reply shall not exceed fifteen (15) pages in length. We caution the parties that they may not incorporate other filings by reference as a means of avoiding these page limitations. Cf. Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr S.A., 377 F.3d 1164, 1167 n.4 (11th Cir. 2004).

In light of this limited remand order, we need not and do not address Siegelman's "Supplemental Motion In Support of Release Pending Appeal . . .," which is hereby DENIED AS MOOT.